

REMARKS

The Office Action mailed March 22, 2010 (hereinafter, “Office Action”) has been reviewed and the Examiner’s comments considered. Claims 1-43 are pending in this application. Claims 27-43 are withdrawn from further consideration as being drawn to a non-elected species. Claims 1-43 are amended herein at least to conform claim preambles. The specification is amended herein to add priority information. Applicants submit that no new subject matter has been introduced.

Information Disclosure Statement

Applicants submitted an Information Disclosure Statement pursuant to 37 CFR 1.97 and in compliance with 37 CFR 1.98 on January 27, 2010. Attached to the Office Action, was the submitted IDS indicating which references were considered. Reference DE19936059 was lined through as not considered, but no statement was provided in the Office Action. A proper publication was submitted of this reference. Thus, Applicants respectfully request the reference be considered. If the reference is not considered, Applicants respectfully request a statement why the reference is not being considered.

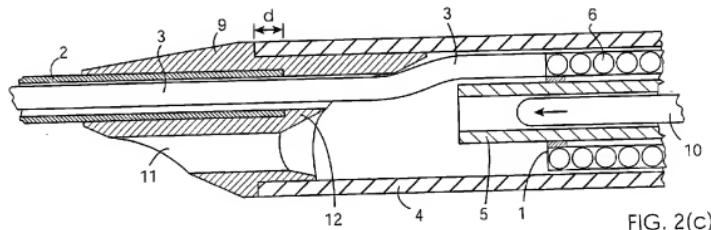
Claim Rejections – 35 U.S.C. § 103

Claims 1-9, 11, 12, and 15-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US 2003/0109886 to Keegan et al. (“Keegan”) in view of USPN 6,663,614 to Carter (“Carter”). Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Keegan and Carter in view of USPN 6,945,989 to Betelia et al. (“Betelia”). Claims 13-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Keegan and Carter in view of USPN 5,603,698 to Roberts et al. (“Roberts”). Applicant respectfully traverses these rejections.

Independent claim 1 recites, *inter alia*, “the sleeve-shaped means having a proximal end which is form-fitted over the primary shaft, and having a radially inwardly tapering portion proximal of the proximal end of the tubular means, said inwardly tapering portion defining a proximal guidewire lumen exit port.”

The Office Action alleges that Keegan discloses a sleeve shaped means (4) having a proximal end which is form-fitted over the primary shaft and having a radially inwardly tapering portion (9) defining a proximal guidewire lumen exit port (11). (Office Action, pp. 2-3.) Applicants respectfully disagree that Keegan discloses these claimed features, and therefore submit that a *prima facie* case of obviousness is not established by Keegan/Carter.

Keegan describes a catheter for delivery of a self-expanding stent that includes a catheter body 2 fixedly attached to a sheath 4 "by means of a junction piece 9," both the catheter body 2 and sheath 4 attached to the junction piece 9 by bonding using an adhesive. (Keegan, paragraph [0130], FIG. 2(c) reproduced below.) Keegan teaches that the distal end of the catheter body is located distally of the proximal end of the sheath 4 such that there is an overlap d. This arrangement is said to stiffen the catheter at the junction between the catheter body 2 and the sheath 4, thereby aiding in smooth transition of the retraction force from the catheter body 2 to the sheath 4. (Keegan, paragraph [0135].)



Other advantages touted by Keegan through this arrangement include minimization of stress exerted on the junction piece, and reduction of kinking at the transition. (Keegan, paragraph [0135].) Thus, due to the arrangement, the junction piece 9 can be either more flexible than the catheter body 2 and sheath 4 to provide greater trackability (Keegan, paragraph [0136]) or more stiff to stiffen the catheter at the junction and reduce the possibility of kinking (Keegan, paragraph [0137]).

The Keegan catheter configuration is distinct from the claimed invention at least because it does not include any of: 1) a sleeve-shaped means having a proximal end form-fitted over the primary shaft, 2) a sleeve-shaped means having a radially inwardly tapering portion proximal of the proximal end of the tubular means, and 3) an inwardly tapering portion defining a proximal guidewire lumen exit port. Even assuming *arguendo* that the junction piece 9 includes features similar to those of the claimed sleeve-shaped means, the junction piece 9 cannot properly be considered a substitute because Keegan describes the junction piece 9 as being formed from a distinct material in order to achieve certain advantages. Carter does not show or describe the claimed features missing from Keegan. Therefore, Applicants submit that a *prima facie* case of obviousness is not established by the asserted combination of Keegan/Carter.

Accordingly, Applicants respectfully submit that independent claim 1, and claims 2-9, 11, 12, and 15-26 depending therefrom, are patentable over the asserted combination, and request favorable reconsideration and withdrawal of the rejection under 35 U.S.C. § 103.

Regarding dependent claims 10 and 13-14, without conceding the propriety of the asserted combinations, or the allegations in the Office Action, Applicants submit that each is patentable at least because it depends from patentable independent claim 1, in view of the above. Accordingly, Applicants respectfully request favorable reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

It is noted that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between the cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein should not be construed to prejudice or foreclose future consideration by Applicant of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner and/or the merits of additional or alternative arguments.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-2191, under Order No. 101671.0057P from which the undersigned is authorized to draw.

Dated: June 18, 2010

Respectfully submitted,

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